

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

AMERICAN HOME ASSURANCE COMPANY :

Case No: 2:16-cv-01065-DSC

Plaintiff,

v.

SUPERIOR WELL SERVICES, INC.

Defendant.

MOTION TO REINSTATE
DECLARATORY JUDGMENT ACTION

Plaintiff American Home Assurance Company (“American Home”) hereby moves to set aside the September 9, 2016 Order closing the above-captioned case for statistical purposes, and requests that this Court reinstate this Declaratory Judgment Action for all purposes and return the case to active status. This request is made based on an order entered by the Bankruptcy Court in the Superior Well Services bankruptcy proceeding, granting American Home relief from the automatic stay. In support of this motion, American Home avers as follows:

1. The Declaratory Judgment Complaint in this action was filed on July 20, 2016 in the Western District of Pennsylvania to address a coverage dispute between American Home and its insured, Superior Well Services, Inc. (hereinafter the “Coverage Action”).

2. On August 30, 2016, Defendant Superior Well Services filed a “Suggestion of Bankruptcy,” based on the Chapter 11 bankruptcy proceeding that had been instituted by the Defendant’s corporate parent in the U.S. Bankruptcy Court for the Southern District of Texas,

Houston Division, captioned *In Re CJ Holding Co., et al.*, Case No. 16-33590 (S.D. Tex.) (the “Bankruptcy Action”).

3. On September 1, 2016, this Court entered an Order for Statistical Closing, based upon the notice of bankruptcy filing in conformance with the automatic stay imposed as a result of the Bankruptcy Action. This order stated that “[n]othing in this order shall be construed as a final dismissal or disposition of this case and further proceedings may be initiated by any party if appropriate.”

4. The Bankruptcy Court, thereafter, entered the attached order, granting American Home relief from the automatic stay. *See* Exhibit A hereto. This order specifically provided that “American Home shall be permitted to continue the prosecution of the Coverage Action in the Western District of Pennsylvania, through final conclusion, whether by motion, trial, settlement or appeal, and without the need for any further orders from this Court.”

5. The parties thereafter engaged in discussions to determine whether their dispute could be resolved amicably. However, following such discussions, the parties have been unable to reach an amicable resolution, and American Home requests that this Court enter the proposed order reinstating its Declaratory Judgment action.

WHEREFORE, Plaintiff American Home respectfully requests that this Court enter an Order reinstating this Declaratory Judgment Action and directing the Clerk to return this case to active status.

Date: February 7, 2018

Respectfully Submitted

AMERICAN HOME ASSURANCE COMPANY

By: /s/ Susan M. Kennedy

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AMERICAN HOME ASSURANCE COMPANY :

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Case No: 2:16-cv-01065-DSC

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Plaintiff,

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:

v.

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:

SUPERIOR WELL SERVICES, INC.

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Defendant.

:

:

ORDER

AND NOW, this day of February, 2018, upon review of the Motion to Reinstate the Declaratory Judgment Action, and any response thereto, it is hereby ORDERED that this Declaratory Judgment Action is REINSTATED and the Clerk is directed to return this case to active status.

CERTIFICATE OF SERVICE

I, Susan M. Kennedy, hereby certify that on this 7th day of February, 2018, the foregoing motion was served upon Defendants' counsel through electronic mail and delivery through the ECF system.

/s/ Susan M. Kennedy

EXHIBIT A

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ENTERED
04/24/2017

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	Chapter 11
	§	
CJ HOLDING CO., <i>et al.</i> ,	§	Case No. 16-33590 (DRJ)
	§	
Debtors.	§	Jointly Administered
	§	
	§	

**AGREED ORDER GRANTING MOTION BY AMERICAN HOME
ASSURANCE COMPANY FOR RELIEF FROM THE AUTOMATIC
STAY AND/OR PLAN INJUNCTION TO PERMIT THE CONTINUATION
OF A PENDING FEDERAL COURT INSURANCE COVERAGE ACTION**

(Docket No. 1414)

THIS matter having come before the Court upon the Motion by American Home Assurance Company ("American Home") for relief from the automatic stay and/or the plan injunction (the "Motion") (ECF No. 1414), so as to permit the continuation of a federal court declaratory judgment action against one of the Debtors captioned as *American Home Assurance Co. v. Superior Well Services, Inc.*, Case No. 2:16-CV-01065-(DSC) (the "Coverage Action"), pending in the United States District Court for the Western District of Pennsylvania; and the Court having jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334; and due and proper notice of the Motion having been provided; and counsel for the Debtors having consented to the relief requested by the Motion as set forth in this Agreed Order; and the Court having reviewed the Motion and determined that good cause exists to grant the relief requested therein; now, therefore, it is hereby

ORDERED, that the Motion is GRANTED to the extent provided herein; and it is further

ORDERED, that, notwithstanding the automatic stay and the Plan Injunction (as defined in the Motion), American Home shall be permitted to continue the prosecution of the Coverage

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Action in the Western District of Pennsylvania through final conclusion, whether by motion, trial, settlement or appeal, and without the need for any further orders from this Court; and it is further

ORDERED, that nothing contained herein shall be deemed an admission of liability by the Debtors or American Home with respect to any claims or issues raised in the Coverage Action, nor a waiver of any rights, claims or defenses arising therein.

SO AGREED:

April 20, 2017

/s/ Jeffrey L. Hoffman
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THE FOREGOING IS HEREBY SO ORDERED:

Signed: April 24, 2017.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE